

usual conduct of the seller's business to a retailer, other than to a vending machine operator or to a sub-wholesaler described in subsection (m)(2) of this section, for the bona fide purpose of resale.

(2) "Wholesale sale of cigarettes" includes any transfer of cigarettes on consignment or otherwise, whereby title is retained by the seller as security for the payment of the purchase price.

(m) (1) "Wholesaler" means a person who purchases cigarettes directly from a [manufacturer] CIGARETTE NONRESIDENT DEALER.

(2) "Wholesaler" includes a person, who, as a sub-wholesaler:

(i) Purchases cigarettes from another wholesaler solely for the purpose of bona fide resale to retailers other than those directly or indirectly owned, affiliated, or controlled by him; and

(ii) Services the retailers by maintaining an established place of business for the sale of cigarettes, including warehouse facilities, adequate inventory, proper accounting records, and necessary equipment and vehicles for the storage and distribution of cigarettes.

(3) If the person is engaged in the business of making both wholesale sales of cigarettes and retail sales of cigarettes, the word only applies to the wholesale sales of cigarettes portion of the business.

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(a) Except as provided in subsection (b) of this section, a retailer or wholesaler with intent to injure a competitor or to destroy or substantially lessen competition may not:

(1) Sell cigarettes in combination with any other item of merchandise if the other item is given free of charge or sold at a price below its cost to the retailer or its cost to the wholesaler, respectively, as defined in Subtitle 4 of this title;

(2) Sell cigarettes in combination with any other item of merchandise if the total sale price for the cigarettes and all other items included in the sale is less than the sum of:

(i) The cost to the retailer or the cost to the wholesaler, respectively, of the cigarettes; and

(ii) The cost to the retailer or the cost to the wholesaler, respectively, as defined in Subtitle 4 of this title, of all other items included in the sale, including items given free of charge in connection with the sale;

(3) Give cigarettes free of charge, except in the case of specially packaged [manufacturers'] CIGARETTE NONRESIDENT DEALERS' samples which are designated on the package as not to be sold; or